

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HIGHPOINT RISK SERVICES, LLC,

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PLAINTIFF,

v.

Civil Action No. 3:14-cv-3398-L

COMPANION PROPERTY & CASUALTY
INSURANCE COMPANY,

DEFENDANT.

DEFENDANT'S NOTICE OF ACTIVITY IN RELATED CASE

Defendant Companion and Casualty Insurance Company ("Companion") submits this Notice of Activity in Related Case.

1. Currently pending in this case are (1) Companion's Motion to Dismiss [ECF 5], (2) Companion's Motion for Order Requiring Joinder of Party Plaintiff [ECF 6], and (3) Companion's Motion to Transfer Venue [ECF 8]. As this Court has been made aware, see Notice of Related Case [ECF 3], and as discussed in the parties' briefing on Companion's Motion to Transfer Venue, a related case is being litigated in the United States District Court for the District of South Carolina involving Companion and Plaintiff Highpoint Risk Services, LLC ("Highpoint"), among other parties, see Civil Action No. 3:14-cv-03719-CMC (the "South Carolina Action").

2. On November 24, 2014, the defendants in the South Carolina Action, including Highpoint, filed a motion to dismiss Companion's first amended complaint for failure to state a claim ("Rule 12(b)(6) Motion") and a separate motion to dismiss for failure to join a necessary and indispensable party ("Rule 12(b)(7) Motion"). In an order dated March 25, 2015, which is attached hereto as Exhibit 1, the South Carolina court denied the defendants' Rule 12(b)(7) Motion and granted in part and denied in part the Rule 12(b)(6) Motion, dismissing certain

claims without prejudice. Highpoint remains a defendant in the South Carolina case as a result of this order.

3. The South Carolina court's order "directs counsel to conduct an in-person meeting to address what discovery will be needed" and "how the discovery will be conducted...." Exhibit 1 at 13. The South Carolina court ordered that "one or more representatives of each party capable of addressing relevant data processing systems and recordkeeping practices should be physically present to participate in the meeting." The South Carolina court also directed that "[a]ll other requirements of the Federal Rule of Civil Procedure 26(f) conference shall be completed during the same meeting...." *Id.* The parties were also ordered to "propose a modified scheduling order...." *Id.* The South Carolina court continues to hold in abeyance Count VI of Companion's first amended complaint until it has the opportunity to review any ruling this Court makes on the pending motions to (i) dismiss, (ii) join party, and/or (iii) transfer. *Id.* at 14.

4. In compliance with the South Carolina court's order, counsel for the parties to the South Carolina Action, including Highpoint, met and conferred on April 22, 2015, to discuss discovery, including discovery of substantial electronically stored information, and will submit their Rule 26(f) report and scheduling order to the South Carolina court. Initial interrogatories and document requests have already been served by Companion. Thus, consistent with the South Carolina court's order, discovery will now proceed in the South Carolina Action against Highpoint and the other inter-related defendants in that case.

Dated: April 24, 2015.

Respectfully submitted,

/s/ John L. Thompson
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**ATTORNEYS FOR DEFENDANT
COMPANION PROPERTY AND
CASUALTY INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on all counsel of record by means of CM/ECF E-SERVICE this 24th day of April, 2015.

/s/ John L. Thompson
John L. Thompson